

MINUTES OF THE MEETING
OF THE
BOARD OF MEDICINE AND SURGERY

September 22, 2006

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Secretary Carl Smith, MD at 9:01 a.m. on Friday, September 22, 2006, at Staybridge Suites, Staybridge Room, 2701 Fletcher Ave, Lincoln, Nebraska. The following members answered to roll call:

Carl V. Smith, MD, Secretary
Larry E. Bragg, MD
Randy T. Kohl, MD
Vonn E. Roberts, MD
Arthur A. Weaver, DO

Absent: Michael Sitorius, Chairman
David Dryburgh, Vice-Chairman
Samuel L. Brown, PhD

A quorum was present and the meeting convened.

Also present to participate in the meeting: Terri Nutzman, Assistant Attorney General; Michael Grutsch, Program Manager, Investigations Division; Robert Semerena, Investigations Division Administrator; Patricia Lemke, Investigator; Steve O'Brien, Investigator; Larry Wiehn, Investigator; Duane Newland, Investigator; Susanne Rydberg, Investigator; Loretta Bennet, Investigator; Sharon Fitts, Investigator; Becky Wisell, Section Administrator, Credentialing Division; Vicki Bumgarner, Credentialing Coordinator, Credentialing Division; Meegan Dyrland, Credentialing Specialist, Credentialing Division.

ADOPTION OF AGENDA

Kohl moved, seconded by Weaver, to adopt the agenda. Voting aye: Smith, Bragg, Kohl, Roberts, Weaver. Voting nay: None. Absent: Brown, Dryburgh, Sitorius. Motion carried.

APPROVAL OF MINUTES OF THE MEETING FROM JUNE 30, 2006

Weaver moved, seconded by Kohl, to approve the minutes of the June 30, 2006 meeting. Voting aye: Smith, Bragg, Kohl, Roberts, Weaver. Voting nay: None. Absent: Brown, Dryburgh, Sitorius. Motion carried.

Weaver moved, seconded by Kohl, to table review of the minutes of the August, 16, 2006 Conference Call. Voting aye: Smith, Bragg, Kohl, Roberts, Weaver. Voting nay: None. Absent: Brown, Dryburgh, Sitorius. Motion carried.

INVESTIGATIONAL REPORTS

Weaver moved, seconded by Kohl, to go into closed session for the purpose of hearing investigational reports. Voting aye: Smith, Bragg, Kohl, Roberts, Weaver. Voting nay: None. Absent: Brown, Dryburgh, Sitorius. Motion carried and the meeting went into closed session at 9:04 a.m.

Brown entered the meeting at 9:04 a.m.

Smith recused himself at 9:16 a.m.

Smith returned to the meeting at 9:26 a.m.

Bragg recused himself at 9:36 a.m.

Bragg returned to the meeting at 9:40 a.m.

Bragg recused himself at 10:16 a.m.

Bragg returned to the meeting at 10:20 a.m.

Smith recused himself at 10:31 a.m.

Smith returned to the meeting at 10:40 a.m.

Kohl recused himself at 10:41 a.m.

Kohl returned to the meeting at 10:45 a.m.

Roberts recused himself at 10:57 a.m.

Roberts returned to the meeting at 10:58 a.m.

The meeting returned to open session at 12:10 p.m.

PHYSICIAN APPLICATION REVIEW & DISPOSITION

Roger Brink, Legal Counsel, Nebraska Department of Health Services Regulation and Licensure entered the meeting at 12:38 p.m.

Joann Schaefer, MD, Chief Medical Officer and Director, Department of Health & Human Services Regulation & Licensure entered the meeting at 12:36 p.m.

Todd Arsenault, MD-Kohl moved, seconded by Bragg, to approve issuance of a license to Arsenault. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Sylvan Bartlett, MD-Bragg moved, seconded by Roberts, to approve issuance of a license to Bartlett. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Richard Whalen, MD-Bragg moved, seconded by Kohl, to approve issuance of a license to Whalen pending completion of his application. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Michael Schumann, MD-Bragg moved, seconded by Kohl, to approve issuance of a Locum Tenens permit for Schumann. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

James Weinstein, MD-Kohl moved, seconded by Weaver, to approve issuance of a Locum Tenens permit for Weinstein. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Melinda Moniz, MD-Kohl moved, seconded by Bragg, to approve issuance of a license to Moniz. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Sankaran Babu, MBBS-Weaver moved, seconded by Bragg, to approve issuance of a license to Babu. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Miguel Daccarett, MD-Roberts moved, seconded by Kohl, to approve issuance of a license to Daccarett. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Zhi Xu, MB-Weaver moved, seconded by Roberts, to approve issuance of a license to Xu. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Fritz Chandler, MD-Kohl moved, seconded by Bragg, to approve issuance of a license to Chandler. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Jason Edens, MD-Weaver moved, seconded by Kohl, to approve issuance of a license to Edens. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Dana Hess, MD-Bragg moved, seconded by Kohl, to approve issuance of a license to Hess. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Craig Robson, MD-Kohl moved, seconded by Bragg, to approve issuance of a license to Robson. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Monique Tolston, MD-Roberts moved, seconded by Kohl, to approve issuance of a license to Tolston. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Ronald Bear-application for a Temporary Educational Permit-Bragg moved, seconded by Roberts, to approve issuance of a permit to Bear. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Eric Carbonell, MD-Roberts moved, seconded by Bragg, to table this application until further information can be obtained. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Ricky Colwell, MD-Bragg moved, seconded by Roberts, to approve issuance of a license to Colwell. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Christopher Hunnicutt-application for a Temporary Educational Permit-Kohl moved, seconded by Roberts to issue a probationary permit to Hunnicutt based on his history of chemical dependency and recent illegal use of anabolic steroids. The term of probation would be for five years and/or the duration of his residency with the normal conditions of chemical dependency as determined by the Department. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Samuel Downing, MD-Helen Meeks, Administrator, Credentialing Division, spoke to the Board regarding the issuance of a limited license to Samuel Downing, MD. At the June 30, 2006 meeting, the Board recommended issuing a limited license to Downing. The limitation would be that he could not practice obstetrics or any pre-natal care. The reason for the limitation is the disciplinary action in Colorado.

Meeks addressed the Board with concerns about issuing Downing a license. Among the concerns were that in the Colorado disciplinary action, Downing had agreed to permanently retire and never practice medicine and surgery again and the limited practice Downing has had in the last three years.

Roberts moved, seconded by Kohl to rescind the previous motion to issue Downing a limited license. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

After further discussion, the Board concluded that even though Downing had agreed to not practice Medicine and Surgery in Colorado, there was no evidence presented in the application materials that Downing had any problems with his gynecology practice. Additionally, it is not uncommon for physicians who are ready to reduce their practice commitments to cease providing obstetric care.

Kohl moved, seconded by Roberts to reinstate the motion to issue Downing a license with the limitation that he cannot practice obstetrics or pre-natal care. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Karen Endacott, MD-at the May 19, 2006 meeting, the Board recommended issuance a probationary license to Endacott if she first meets certain conditions. Endacott has met the pre-licensure conditions of the board and could be issued a license. However, Endacott was requesting to modify one of the conditions of the probation.

One condition was psychiatrist visits once a month for the first year and quarterly thereafter. Endacott has requested to reduce the number of psychiatrist visits from monthly to once a month for the first three months and then, if approved by the psychiatrist, attend appointments quarterly.

Kohl moved, seconded by Bragg to approve Endacott's request. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

The Board also reviewed Endacott's request for Ruby Northrup, MD to act as her practice monitor. Kohl moved, seconded by Roberts, to approve Endacott's request. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Reinstatements

Luella Bangura, MD-reinstatement after more than one year since revocation for non-payment of renewal fees. Kohl moved, seconded by Brown, to reinstate the license for Bangura. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

Chin-Suck Chung, MD-reinstatement from inactive status. Roberts moved, seconded by Kohl to deny the reinstatement of license for Chung. The basis for this denial is the following: 1) Chung attempted to procure controlled substances without an active license and 2) Chung obtained legend prescription drugs for use by himself and his family when he did not have an active license. These acts are a direct violation of the Uniform Controlled Substance Act and the Uniform Licensing Law. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

DISCUSSION ON DISCIPLINE

Joann Schaefer, MD, Chief Medical Officer and Director, Department of Health & Human Services Regulation & Licensure, spoke to the Board on the subject of her philosophy regarding discipline. She expressed her thanks to the Board for their hard work and dedication. Schaefer also addressed the restructuring of the Health and Human Services System. The goal is to have the new structure be something that can work through the years.

SCHEDULE BOARD MEETINGS FOR 2007

The Board discussed tentative dates for their meeting for 2007.

DISCIPLINARY INFORMATION – ACTIONS TAKEN & PENDING

The Board reviewed actions taken and pending since the last meeting.

FINANCIAL REPORT

The Board reviewed the status of the budget as of July 31, 2006.

APPROVAL OF BUDGET FOR FY 07

Brown moved, seconded by Kohl to approve the Fiscal Year 2007 Budget. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

PRACTICE QUESTIONS

The Board discussed looking further into the issues of Botox and LipoDissolve. This issue will be discussed further at future meetings.

DRUG ENFORCEMENT AGENCY ISSUES

Issuance of Multiple Prescriptions for Schedule II Controlled Substances Policy Statement

The Drug Enforcement Administration (DEA) has proposed to amend its regulations to allow practitioners to provide individual patients with multiple prescriptions, to be filled sequentially, for the same schedule II controlled substance, with such multiple prescriptions having the combined effect of allowing a patient to receive over time up to a 90-day supply of that controlled substance. DEA is requesting public comment on this proposed rule.

The deadline for comments on this statement is November 6, 2006.

Wisell stated that the Board of Pharmacy reviewed this information and was in support of the DEA's proposed rule, but would like to extend the limit up to 180 days.

The Board mirrored the Board of Pharmacy's comment and supported the extension of up to 180 days.

Dispensing Controlled Substances for the Treatment of Pain – Notice of Proposed Rulemaking

There was no discussion on the DEA Notice of Proposed Rulemaking regarding dispensing controlled substances for the treatment of pain.

FEDERATION OF STATE MEDICAL BOARDS REPRESENTATIVE'S UPCOMING VISIT

Wisell announced that two representatives from the Federation of State Medical Boards will be at the next Board meeting, on November 3, 2006. The meeting is scheduled to start at 9 a.m., at which time the representatives will address the Board.

CITIZENS ADVOCACY CENTER 2006 ANNUAL MEETING

Kohl moved, seconded by Weaver, to approve Brown attending the October 17-20 Citizen Advocacy Center Annual Meeting in Williamsburg, VA. Voting aye: Smith, Bragg, Brown, Kohl, Roberts, Weaver. Voting nay: None. Absent: Dryburgh, Sitorius. Motion carried.

ALL HEALTH CARE RELATED BOARD MEMBERS MEETING

Wisell reminded any Board member who signed up to attend the All Health Care Related Board Members Meeting that it will be held on September 29, 2006.

2006 PHYSICIAN LICENSE RENEWAL

Approximately 79% of physicians have utilized the online renewal this year. Considering the short turn around time for renewal this year, things were going smoothly and well over half of all physicians have renewed.

PHARMACEUTICAL CARE AGREEMENTS

The Board reviewed the pharmaceutical care agreements submitted by R. Matt Byrd, MD and John Franklin, RP, James Biskup, MD and Frances Moore, RP, William Weeks, MD and Marty Feltner, RP and Paul Cook, MD and Michael Heskin, RP.

ADJOURNMENT

There being no further business, the meeting adjourned at 2:10 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Carl V. Smith".

Carl V. Smith, Secretary
Board of Medicine and Surgery